

CALIFORNIA CERTIFIED REINSURER APPLICATION CHECKLIST

This checklist is based on California Insurance Code section 922.41, and serves as a guide for insurers seeking certified reinsurer status in California. Do not leave any checklist items blank. Mark either “X” or “n/a” in the box provided. Use “n/a” if a checklist item does not apply, and provide an explanation why that item is not applicable under the application exhibit. ***Please submit a duplicate copy of the completed application.***

Pursuant to section 922.41(e)(1) of the Insurance Code, notice of a filed application will be posted on the California Department of Insurance’s (“CDI”) website. Posted notice will be found under the “[Certified Reinsurer](#)” portion of the “Bulletins & Notices” page on CDI’s website.

Please note, this checklist is intended as a *guide* for insurers seeking certified reinsurer status. The Commissioner reserves the right to establish relevant requirements or request information *in addition* to what has been set forth in this checklist. See Cal. Ins. Code § 922.41(b)(6), (f)(7), (h)(1)(K) (West 2013).

Name of Applicant: _____

NAIC Alien Id. No. (Non-U.S. licensed): _____ **NAIC Co. Code** (U.S. licensed): _____

Domiciliary Jurisdiction: _____

CHECKLIST

All applicants must include or address the following items:

- ☐ **1. Completed Checklist**
- ☐ **2. Cover Letter**
 - ☐ a. Requesting certified reinsurer status.
 - ☐ b. Noting the status of the applicant’s domiciliary jurisdiction, *i.e.* has applicant’s domiciliary jurisdiction been determined to be a ***qualified jurisdiction*** as required by section 922.41(b) and (g) of the California Insurance Code, or is applicant providing information with this application required to complete a Qualified Jurisdiction Assessment as detailed in Item #11, below.
 - ☐ c. Specifying the mechanism used to post collateral.
i.e., Cash or Securities, Letters of Credit, and/or Multibeneficiary Trust. See Cal. Ins. Code §§ 922.4(d), 922.41(a), 922.41(i), 922.5
- ☐ **3. Advance/Deposit** – Remit \$1,500 to the California Department of Insurance

NOTE: The actual costs and expenses incurred by CDI in reviewing certification requests will be separately charged to the requesting insurer pursuant to section 922.43. Review costs are *in addition* to the \$1,500 advance/deposit fee.

- ☐ **4. Proof of Licensure and Good Standing** – Cal. Ins. Code § 922.41(b)(1), (c)(1), (f)(6)
- ☐ a. A copy of the certificate of authority or license to transact insurance or reinsurance from applicant's domiciliary jurisdiction.
- ☐ b. A certification from applicant's domestic regulator affirming applicant is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level.
- ☐ c. If applicable, a certification from the insurance regulator in an NAIC accredited jurisdiction affirming that applicant has been designated a certified reinsurer in that jurisdiction.

- ☐ **5. Financial Strength Ratings** – Cal. Ins. Code § 922.41(b)(3)
- ☐ a. Two (2) or more letters from acceptable rating agencies confirming financial strength ratings as the date of the applicant's most recent audited financial statement.

NOTE: Acceptable rating agencies include: Standard & Poor's, Moody's Investors Service, Fitch Ratings, A.M. Best Company, or any other nationally recognized statistical rating organization.

- ☐ **6. California's Form CR-1** – Cal. Ins. Code § 922.41(b)(4)-(5)
- ☐ a. California's Form CR-1 must be properly executed by an officer authorized to bind the applicant to the commitments set forth in the form.
- NOTE:** [California's Form CR-1](#) can be found on CDI's website under the "Certified Reinsurer Application" section of the "Corporate Applications & Information" page.

- ☐ **7. Regulatory Action Statement** – Cal. Ins. Code § 922.41(f)(1), (h)(1)(B), (E)-(F) **which should include:**
- ☐ a. A description of regulatory actions taken against applicant in the past three (3) years. Include a description of the allegations and all actions taken by any regulator. Do not limit the list to actions taken by applicant's domiciliary regulator – include *all* regulatory actions, fines, and penalties regardless of the amount.
- ☐ b. A description of any changes in the past three (3) years in the provisions of applicant's domiciliary license.
- ☐ c. A description of any changes in the past three (3) years in a rating from an approved rating agency.
- ☐ d. A description of applicant's business practices in dealing with ceding insurers, including its record of compliance with reinsurance contractual terms.
- ☐ e. A description of applicant's claims payment practices under its reinsurance agreements.

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8. Independent Auditor Report – Cal. Ins. Code § 922.41(f)(3)-(4)

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- a. Submit the report of the independent auditor on applicant's *current year* of financial statements, or the report on the insurance enterprise if independent auditor statements are only prepared on an enterprise basis.

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- b. Report must be audited on a U.S. Generally Accepted Accounting Principles ("U.S. GAAP") basis, if available. Reports audited on an International Financial Reporting Standards ("IFRS") basis are allowed but must include either: an audited footnote reconciling equity and net income to a U.S. GAAP basis; OR, with the prior written permission of the California Commissioner, reconciliation to U.S. GAAP certified by an officer of the company.

NOTE: A [reconciliation certification form](#) can be found on CDI's website under the "Certified Reinsurer Application" section of the "Corporate Applications & Information" page.

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9. Financial Filings – Cal. Ins. Code § 922.41(b), (d)(1), (f), (h)(1)(C)-(D)

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- a. Last three (3) years of audited financial statements filed with applicant's supervisor.

NOTE: Statements submitted must be audited on a U.S. GAAP basis or on an IFRS basis with reconciliation as noted above in Item #8(b)

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- b. Statements must demonstrate that applicant has minimum capital and surplus, or the equivalent, of at least \$250,000,000.

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- c. If applicant is an association of incorporated and individual unincorporated underwriters, statements must demonstrate that applicant has at least \$250,000,000 plus a central fund with a balance of at least \$250,000,000.

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- d. Statement must include the most recent regulatory filings and actuarial opinion as filed with applicant's supervisor.

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- e. **NAIC Schedule F** (for property/casualty) or **Schedule S** (for life and health) for applicants domiciled in the U.S.

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- f. **Form CR-F** (for property/casualty) or **Form CR-S** (for life and health) for applicants not domiciled in the U.S.

NOTE: Instructions for [Form CR-F](#) and [Form CR-S](#), as adopted by the NAIC Reinsurance Task Force, can be found on CDI's website under the "Certified Reinsurer Application" section of the "Corporate Applications & Information" page.

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10. Overdue or Disputed Reinsurance Claims – Cal. Ins. Code § 922.41(f)(5)

- a. List and provide a description of all disputed and overdue reinsurance claims (regardless of whether the claims are in litigation or arbitration) regarding reinsurance assumed from U.S. domestic ceding insurers.

NOTE: This list must be updated at least annually.

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11. Qualified Jurisdiction Assessment – Cal. Ins. Code § 922.41(g)(1), (h)(1)(I)

NOTE: A Qualified Jurisdiction Assessment is only required of applicants domiciled in a jurisdiction that does not appear on the California Commissioner’s published list of ***qualified jurisdictions***. See Cal. Ins. Code § 922.41(g).

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- a. Submit a letter from the applicant’s domiciliary regulator wherein the domiciliary regulator agrees to participate in California’s Qualified Jurisdiction Assessment.

NOTE: Once the letter submitted in accord with Item #11(a) is received, California will contact the applicant’s domiciliary regulator to initiate the execution of a Memorandum of Understanding (“MOU”) between the jurisdictions. Please ensure that the letter contains contact information for applicant’s domiciliary regulator.

An executed MOU to share information between applicant’s domiciliary regulator and the California Insurance Commissioner regarding all certified reinsurers domiciled in the jurisdiction is a required element of this application. The application will not be considered complete until an executed MOU exists between the jurisdiction and the California Insurance Commissioner. See Cal. Ins. Code § 922.41(g)(1).

For applicants that must undergo a Qualified Jurisdiction Assessment, choose ONE of the below options:

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Option 1: Public Information Option

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- a. Submit the jurisdiction’s most recent Detailed Assessment of Observance on Insurance Core Principals under the IMF/World Bank Financial Sector Assessment Program (FSAP). Include relevant updates to the FSAP report if information is outdated or has changed.

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- b. Submit the jurisdiction’s Report on Observance for Standards and Codes(ROSC). Include relevant updates to the ROSC report if information is outdated or has changed.

- ☐ c. Submit a supplement to the FSAP and ROSC reports, including materials and information that are responsive to the **Qualified Jurisdiction Assessment Guidelines** detailed below, that are not included or addressed in the FSAP or ROSC reports. Examples of additional materials include information that has been provided in response to information exchanges with regulatory bodies, or a report prepared by a person qualified in applicant's domiciliary jurisdiction to provide legal advice.
- ☐ d. Provide a report addressing items (c), (d), (e) and (f) of the **Qualified Jurisdiction Assessment Guidelines**

NOTE: Applicant can request copies of the FSAP and ROSC reports from their domiciliary regulator, or request that their domiciliary regulator provide copies of these reports to CDI. It is the applicant's responsibility to obtain the FSAP and ROSC reports if the applicant desires to use this option.

CDI's review will be focused on how the jurisdiction's laws, regulations, practices, and procedures work to regulate the financial solvency of domestic reinsurers. *See* Cal. Ins. Code § 922.41(g)(1)(A)-(I). The **Qualified Jurisdiction Assessment Guidelines** are intended to provide guidance on the areas of inquiry CDI will consider. After reviewing the information provided by the applicant, CDI may request the submission of supplemental information and/or responses to specific questions in order to reasonably conclude that the jurisdiction has sufficient authority to regulate the solvency of its reinsurers.

Please submit all reports, supplemental material, and responses to questions in English. *See* Cal. Ins. Code § 8.

☐ **Option 2: Applicant Reported Option**

- ☐ a. Submit a report that, at a minimum, addresses all the areas of inquiry detailed in the **Qualified Jurisdiction Assessment Guidelines**. The completed report should provide information on the jurisdiction's laws, regulations, practices, and procedures applicable to the reinsurance supervisory system; how final U.S. judgments and arbitration awards are enforced; and the liquidation priority of obligations to a ceding insurer. *See* Cal. Ins. Code § 922.41(g)(1)(A)-(I).

NOTE: The report required pursuant to Option 2: paragraph (a), above, may be prepared by the applicant. Any legal analysis included in the report must be certified to be an accurate summary of the jurisdiction's laws by a person qualified in the applicant's domiciliary jurisdiction to provide legal opinions.

Please submit all reports and any responses to requests for additional information in English. *See* Cal. Ins. Code § 8.

Qualified Jurisdiction Assessment Guidelines

- ☐ a. **Laws and Regulations** – Address the legal basis for sound insurance/ reinsurance regulation. Include information on:
 - ☐ i. Examination Authority – A description on the jurisdiction’s authority to examine domestic reinsurers. Describe exam frequency, guidelines, access to exam records, ability to examine employees and officers under oath, and the ability to share or make public exam results.
 - ☐ ii. Capital and Surplus Requirements – Describe the ability to require a minimum level of capital and surplus and the authority to require additional capital and surplus based on the type, volume, and nature of the reinsurance business transacted.
 - ☐ iii. Accounting Practices, Procedures, and Filings – Describe accounting reporting practices and procedures, disclosure requirements, and requirements for filing annual and interim financial statements.
 - ☐ iv. Corrective Action – Describe corrective action or cease and desist powers, along with specific standards used to determine when continued operation of the reinsurer would be hazardous to the public.
 - ☐ v. Investment Valuation and Regulation – Describe the authority to establish investment valuation practices and procedures, and the regulator’s ability to require a diversified portfolio.
 - ☐ vi. Holding Company Systems – Describe the supervision of group holding company systems regarding access to information related to the group, examination rights, review of affiliate transactions, enterprise risk, dividends to shareholders, competency of management, and investment in non-insurance subsidiaries. Include information on how this assessment differs from the individual company assessment.
 - ☐ vii. Risk Management – Describe the jurisdiction’s risk management function and practices.
 - ☐ viii. Liabilities and Reserves – Describe the minimum standards for the establishment of liabilities for unearned premium, claims and catastrophic occurrences, and reserves.
 - ☐ ix. Reinsurance Ceded – Describe the requirements for financial statement credit allowed for reinsurance ceded by domestic and non-domestic reinsurers. Include information on requirements related to: collateral, risk transfer, special purpose reinsurance vehicles and insurance securitizations, affiliated reinsurance transactions and concentration risk, and disclosure to supervisors.

- ☐ x. *Independent Audits* – Describe the requirements applicable to annual audits by independent certified public accountants.
- ☐ xi. *Receivership and Liquidation Priority* – Describe the receivership scheme for insolvent reinsurers. Include information on the liquidation priority of reinsurance obligations to domestic and non-domestic ceding insurers in the context of an insolvency proceeding.
- ☐ xii. *Reinsurance Intermediaries* – Describe the framework for regulation of reinsurance intermediaries.
- ☐ xiii. *Regulatory Authority* – Describe the framework for the organization and licensing of reinsurers.
- ☐ xiv. *Information Sharing* – Describe the process and related laws for sharing confidential information.
- ☐ b. **Jurisdiction’s Regulatory Practices and Procedures** – Address the practices and procedures the supervisory authority uses for financial analysis of its domestic reinsurers. Include information on:
 - ☐ i. *Staff and Resources* – Describe the resources employed to review the financial condition and market conduct of domestic reinsurers. Include information on financial reviewer and examiner education and experience requirements, how exams are scheduled, and if specialists are used.
 - ☐ ii. *Priority-Based Analysis/Depth of Review* – Describe how financial analysis procedures are prioritized, how exams are scheduled, and if the authority performs risk-focused exams. Include information on how the depth of review for exams and financial analysis is determined.
 - ☐ iii. *Documentation of Analysis Procedures* – Describe how examinations and financial analysis procedures are documented to provide for consistency and continuity of review.
 - ☐ iv. *Reporting and Action on Adverse Findings* – Describe the reporting process and how the jurisdiction responds to reported adverse findings.
 - ☐ v. *Early Warning/Stress Testing* – Describe any early warning or stress testing methods used.
- ☐ c. **History of Performance** – Describe the history of performance by assuming insurers in the domiciliary jurisdiction. This query is not intended to review confidential company-specific information. It should, however, address the following:
 - ☐ i. Number of reinsurers domiciled in the jurisdiction.

- ☐ ii. Up to a 10-year history of any regulatory actions taken against specific reinsurers.
- ☐ iii. Up to a 10-year history listing any reinsurers that have gone through insolvency proceedings. Include the size of the insolvency, and a description of the related outcome (i.e. reinsurer liquidated, payout percentage of claims to priority classes, payout percentage of claims to domestic and foreign claimants).
- ☐ iv. Up to a 10-year history of any significant industry-wide fluctuations in capital or profitability with respect to domestic reinsurers.
- ☐ d. **Jurisdiction's Requirements Applicable to U.S. Domiciled Reinsurers** – Describe the rights, benefits, and extent of reciprocal recognition afforded to reinsurers licensed and domiciled in the U.S.
- ☐ e. **Enforcement of Final U.S. Judgments** – At a minimum, include information on all of the following:
 - ☐ i. Local laws regarding the enforcement of foreign judgments, address:
 - 1. If a treaty is required to enforce foreign judgments. Identify the treaty if one exists.
 - 2. If the jurisdiction recognizes and enforces default judgments entered in foreign jurisdictions.
 - 3. If local laws of the jurisdiction recognize the principals of comity, reciprocity, and res judicata.
 - ☐ ii. Procedural process and documentation required to enforce foreign judgments.
 - ☐ iii. Nature of damages recognized, address if the following damages are recognized and to what extent:
 - 1. Compensatory damages
 - 2. Penalties and/or fines imposed by foreign insurance regulators
 - 3. Criminal restitution awards imposed by a foreign jurisdiction in criminal trials or plea bargains
 - 4. Punitive damages
 - 5. Multiple damage awards in which compensatory damages are awarded together with punitive damages, penalties, and/or fines in the same judgment

- ☐ iv. Other limits on the enforcement of foreign judgments, address:
1. Public policy concerns that would prevent the enforcement of foreign judgments.
 2. Documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction

- ☐ f. **Solvent Schemes of Arrangement** – Provide a description of any legal framework that allows reinsurers domiciled in the jurisdiction to propose or participate in any solvent schemes of arrangement or similar procedure. Provide a description of a solvent scheme of arrangement that a domestic insurer has proposed or participated in and the outcome of that arrangement.

NOTE: The **Qualified Jurisdiction Assessment Guidelines** are not intended as a prescriptive checklist of requirements, but as a tool provided to facilitate an outcomes-based comparison to financial solvency regulation inspired by key elements of the NAIC Accreditation Program.

- ☐ **12. Solvent Schemes of Arrangement Statement** – Cal. Ins. Code § 922.41(h)(1)(J)
- a. A statement regarding whether applicant is currently or has participated in any solvent schemes of arrangement, or a similar procedure, that involves U.S. ceding insurers.

- ☐ **13. Sample Reinsurance Contracts** – Cal. Ins. Code § 922.41(i)(1)
- a. Sample of each type of reinsurance contract with proper funding clause.

If applicant is an **association including incorporated and individual unincorporated underwriters** include all of the above **AND**:

- ☐ **14. Member Statement** – Cal. Ins. Code § 922.41(d)(2)
- ☐ a. A statement providing that no members of the association are engaged in any business other than underwriting as a member of the association.
- ☐ b. A statement providing that members shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are unincorporated members.
- ☐ **15. Member Solvency Certification** – Cal. Ins. Code § 922.41(d)(3)
- ☐ a. Submit certification from the association's domiciliary regulator of the solvency of each underwriter member submitted within 90 days after financial statements are due to domiciliary regulator; OR if unavailable,
- ☐ b. Submit financial statements prepared by independent public accountants of each underwriter member.